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**REMARKS**

Claims 1 and 3-47 all the claims pending in the application. Applicant respectfully cancels claim 2 without prejudice or disclaimer. Claims 26 and 35 are objected. Claims 1-16 and 19-25 stand rejected under 35 U.S.C. § 101, because the claim is allegedly directed to non-statutory subject matter.

Claims 1-47 stand rejected on prior art grounds. In addition, the drawings are objected to. Applicants respectfully traverse these objections/rejections based on the following discussion.

**I. The 35 U.S.C. §101**

Claims 1-16 and 19-25 stand rejected under 35 U.S.C. §101. In response to the Examiner's rejection, the Applicant has amended independent claims 1 and 22-25, and related dependent claims 2-16. to recite, in part, "conducting a promotional offer over a computer network," in order to overcome the Examiner's rejection. Please note, as indicated in the Specification, this invention is generally practiced via a computer network in order to be efficient. (See Page 9, line 30-Page 10, line 7; Page 10, lines 25-31; and Page 14, lines 11-26).

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this rejection.

**II. The Prior Art Rejections**

Claims 1-47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Herz (U.S. Publication No. 2001/0014868). Applicants respectfully traverse these rejections based on the following discussion.

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**A. The Rejection Based on Herz**

Regarding claims 1 and 3-47, Herz ("Herz") fails to disclose, suggest or teach the features of independent claim 1, and similarly independent claims 26 and 27, including the unspecified or variable parameters are defined when the promotional offer is accepted by respective customers. Similarly, Herz also fails to disclose, suggest or teach the features of independent claim 22, and similarly independent claims 24 and 25, including the unspecified or variable parameters are defined when the promotional offer is redeemed by respective customers. Further, Herz also fails to disclose, suggest or teach the features of independent claim 23, including one or more of the parameters are defined when the promotional offer is requested by respective customers. (See Page 2, lines 24-28; Page 3, lines 10-15; Page 5, lines 21-Page 6, line 2; Page 15, lines 6-15; Page 15, line 31-Page 16, line 7; and Figures 1, 3 and 6).

First, Applicant agrees with the Examiner that Herz "lacks explicit recitation of some of the elements and limitations of claims 2-21," including the above features from claim 2, which have been incorporated into independent claims 1 and 22-25. In addition, Applicant respectfully traverses the assertion that Official Notice should be taken of Applicant's original claims 2-21, which present novel features. Indeed, the Office Action only provides general comments regarding the rejection of original claims 2-21, and does not meet the burden required in the MPEP that the Office Action specifically identify in the cited references where the features are taught or suggested. (See Office Action, Page 6, lines 15-20).

In addition, Figures 1, 4 and 5B of Herz merely disclose a system for the automatic determination of customized prices and promotion. Consistent with the Examiner's assertion, as indicated above, that Herz is deficient as basically, the system "largely by tracking the behavior of shoppers, the system accumulates extensive profiles of the shoppers, and the offers they consider. The system can then select, present, price and promote goods and services in ways that are tailored to an individual consumer. Accordingly, this system, at best, uses the collected data to define the parameters at the time an offer is presented to a customer. Therefore, the coupon promotion parameters are decided at the time of the coupon creation. Thus, Herz's does not teach or suggest including the unspecified or variable parameters are defined when the

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promotional offer is accepted by respective customers, the unspecified or variable parameters are defined when the promotional offer is redeemed by respective customers, and one or more of the parameters are defined when the promotional offer is requested by respective customers (See Herz at Abstract; Paragraphs [0005], [0024], [0033] and [0034]).

For emphasis, Applicant discloses and teaches defining unspecified parameters at another time period, for example, when an offer is accepted by a customer, or when an offer is redeemed by a customer as claimed by Applicant. Although, generally, "the unspecified or variable parameters of the offer are finalized in steps 130, 150 for each targeted customer to whom the record of the offer is distributed either at the time of distribution 130, or time of redemption 150, or a combination of both, the value of coupon parameters can be decided at any stage of the coupon life cycle, rather than just at the stage of creation. (See Application, Page 5, lines 20-30; and Page 15, lines 20-30). Thus, Applicant's invention is distinct from Herz, which only defines the parameters by the time the offer is presented.

For at least the reasons outlined above, Applicant respectfully submits that Herz does not disclose, teach or suggest, including the unspecified or variable parameters are defined when the promotional offer is accepted by respective customers of independent claim 1, the unspecified or variable parameters are defined when the promotional offer is redeemed by respective customers of independent claim 22, and similarly independent claims 24 and 25, and including one or more of the parameters are defined when the promotional offer is requested by respective customers of independent claims 23 of Applicant's invention.

For the reasons stated above, the claimed invention, and the invention as cited in independent claims 1 and 22-27, and related dependent claims 3-21 and 28-47, is fully patentable over the cited reference.

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**III. Formal Matters and Conclusion**

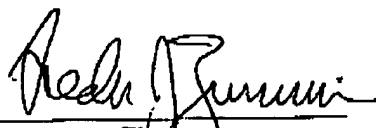
With respect to the objections to the claims, the claims have been amended, above, to overcome these objections. In view of the foreign, the Examiner is respectfully requested to reconsider and withdraw the objections to the claims.

In view of the foregoing, Applicants submit that claims 1 and 3-47, all the claims presently pending in the application, are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary.

Please charge any deficiencies and credit any overpayments to Attorney's Deposit Account Number 09-0441.

Respectfully submitted,

Dated: 10/20/04  
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